

HOUSE BILL No. 2528

By Committee on Federal State Affairs

2-20

AN ACT concerning alcoholic beverages; concerning certain licensees; relating to bond requirements; amending K.S.A. 41-301, 41-316, 41-317, 41-502, 79-4106 and 79-41a03 and repealing the existing sections.

Be it enacted by the Legislature of the State of Kansas:

Section 1. K.S.A. 41-301 is hereby amended to read as follows: 41-301. The director shall issue to qualified applicants, who have ~~filed the bond and~~ paid the registration and license fees required by this act *and who have filed the bond if required by this act*, licenses to sell alcoholic liquor at retail in the original package within the corporate limits of cities and outside the corporate limits of cities in certain townships as provided in this act: ~~Provided, That~~. No such retailer's license shall be issued for any premises within any city of the first or second class wherein a majority of the qualified electors of such city who voted on the proposition to amend section 10 of article 15 of the constitution of the state of Kansas at the general election held in November, 1948, shall have voted against the adoption of such proposition or in ~~cities~~ *any city* of the third class located in a township, or townships, wherein a majority of the qualified electors of such township, or townships, who voted on ~~said~~ *such* proposition to amend the constitution at ~~said~~ *such* election shall have voted against its adoption, until a majority of the qualified electors of such city voting at an election held as provided by K.S.A. 41-302, *and amendments thereto*, shall have declared by their votes to be in favor of the licensing of the sale of alcoholic liquor by the package in such city.

Sec. 2. K.S.A. 41-316 is hereby amended to read as follows: 41-316. Licenses to manufacturers, distributors, microbreweries, farm wineries and nonbeverage users of alcoholic liquors shall be issued and renewed by the director to qualified applicants upon written application, receipt of bond properly executed, *if required by the director*, and payment in advance of the state registration fee and the license fee.

Sec. 3. K.S.A. 41-317 is hereby amended to read as follows: 41-317. (a) Applications for all licenses under this act shall be upon forms prescribed and furnished by the director and shall be filed with the director in duplicate. Each application shall be accompanied by a state registration fee of \$50 for each initial application and \$10 for each renewal application

1 to defray the cost of preparing and furnishing standard forms incident to
2 the administration of this act and the cost of processing the application.
3 Each application ~~shall~~ also *shall* be accompanied by a deposit of a certified
4 or cashier's check of a bank within this state, United States post office
5 money order or cash in the full amount of the license fee required to be
6 paid for the kind of license applied for, which license fee shall be returned
7 to the applicant if the application is denied. All registration fees shall be
8 paid into the state treasury by the director and shall be credited to the
9 state general fund. All license fees received by the director, including fees
10 received for licenses to manufacture beer, regardless of its alcoholic con-
11 tent, shall be paid into the state treasury by the director and shall be
12 credited to the state general fund.

13 (b) *Every Except as provided by subsection (d), an applicant for a*
14 *manufacturer's, distributor's, nonbeverage user's, microbrewery, farm*
15 *winery or retailer's license shall file with the application a joint and several*
16 *bond on a form prescribed by the director and executed by good and*
17 *sufficient corporate sureties licensed to do business within the state of*
18 *Kansas to the director, in the following amounts:*

19 (1) For a manufacturer, \$25,000;

20 (2) for a spirits distributor, \$15,000 or an amount equal to the highest
21 monthly liability of the distributor for taxes imposed by the Kansas liquor
22 control act for any of the 12 months immediately prior to renewal of the
23 distributor's license, whichever amount is greater;

24 (3) for a beer or wine distributor, \$5,000 or an amount equal to the
25 highest monthly liability of the distributor for taxes imposed by the Kansas
26 liquor control act for any of the 12 months immediately prior to renewal
27 of the distributor's license, whichever amount is greater;

28 (4) for a retailer, \$2,000;

29 (5) for nonbeverage users, \$200 for class 1, \$500 for class 2, \$1,000
30 for class 3, \$5,000 for class 4 and \$10,000 for class 5; and

31 (6) for a microbrewery or a farm winery, \$2,000.

32 If a distributor holds or applies for more than one distributor's license,
33 only one bond for all such licenses shall be required, which bond shall be
34 in an amount equal to the highest applicable bond.

35 (c) All bonds required by this section shall be conditioned on the
36 licensee's compliance with the provisions of this act and payment of all
37 taxes, fines and forfeitures which may be assessed against the licensee.

38 (d) *If requested by a licensee submitting an application for renewal*
39 *of a license, the director may waive the bond required by this section for*
40 *any licensee who, during the 12 months preceding the date of application,*
41 *has complied with the provisions of the Kansas liquor control act and has*
42 *not been delinquent in the payment of any taxes or fees imposed under*
43 *the Kansas liquor control act during such time period. When, in the judg-*

1 *ment of the director, it is necessary in order to secure the collection of*
2 *any tax, penalty or interest due thereon, the director may require such*
3 *licensee to file the bond required by subsection (b).*

4 *A space shall be provided on the application form where an applicant*
5 *for renewal of licensure may request waiver of the bond required by this*
6 *section.*

7 *The director shall adopt any rules and regulations necessary to imple-*
8 *ment the provisions of this subsection.*

9 Sec. 4. K.S.A. 41-502 is hereby amended to read as follows: 41-502.
10 (a) The secretary of revenue shall prescribe, by rules and regulations
11 adopted pursuant to K.S.A. 41-210, and amendments thereto, and de-
12 signed to protect the revenue of this state, a method of reporting, paying
13 and collecting the tax imposed by K.S.A. 41-501, and amendments
14 thereto, other than the affixture to original packages of alcoholic liquor
15 of stamps or other visible evidence of the payment of such tax. Such tax
16 shall be paid on or before the 15th day of the calendar month next suc-
17 ceeding the month in which the distributor acquires possession of alco-
18 holic liquors made taxable by the provisions of K.S.A. 41-501, and amend-
19 ments thereto. The reporting and payment thereof within the time
20 prescribed by this section and in the manner prescribed by the rules and
21 regulations shall constitute a compliance with the provisions of K.S.A. 41-
22 501, and amendments thereto.

23 (b) *When, in the judgment of the secretary of revenue, it is necessary,*
24 *in order to secure the collection of any tax, penalties or interest due, or*
25 *to become due, under the provisions of K.S.A. 41-501, and amendments*
26 *thereto, the secretary may require any person subject to such tax to file a*
27 *bond with the director of taxation under conditions established by and in*
28 *such form and amount as prescribed by rules and regulations adopted by*
29 *the secretary. If requested by a person subject to such tax, the secretary*
30 *may waive the requirement to file a bond if, during the preceding twelve-*
31 *month period, such person has complied with the provisions of the Kansas*
32 *liquor control act and has not been delinquent in the payment of any taxes*
33 *or fees imposed under the club and drinking establishment act or the*
34 *provisions of K.S.A. 41-501, and amendments thereto.*

35 Sec. 5. K.S.A. 79-4106 is hereby amended to read as follows: 79-
36 4106. The director of taxation shall administer the provisions of article 41
37 of chapter 79 of the Kansas Statutes Annotated. The secretary of revenue
38 shall adopt rules and regulations necessary to carry out the provisions and
39 intent of K.S.A. 79-4101 to ~~79-4105, inclusive~~ *through 79-4108, and*
40 *amendments thereto.* The director of taxation shall appoint such agents
41 and employees ~~as he or she may deem~~ *deemed* necessary for the proper
42 enforcement and administration of ~~said sections~~ *K.S.A. 79-4101 through*
43 *79-4108, and amendments thereto.* When, in the judgment of ~~said~~ *the*

1 director of taxation, it is necessary in order to secure the collection of any
2 such tax, penalties or interest due thereon, or to become due under ~~said~~
3 ~~sections, he or she~~ *the provisions of K.S.A. 79-4101 through 79-4108, and*
4 *amendments thereto, the director may require any person subject to such*
5 *tax to file a bond with him or her the director in such form and amount*
6 *as he or she the director may prescribe. If requested by a person subject*
7 *to such tax, the director may waive the requirement to file a bond if,*
8 *during the preceding twelve-month period, such person has complied with*
9 *the provisions of the Kansas liquor control act and the club and drinking*
10 *establishment act and has not been delinquent in the payment of any taxes*
11 *or fees imposed under the Kansas liquor control act, the club and drinking*
12 *establishment act or K.S.A. 79-4101 through 79-4108, and amendments*
13 *thereto, during such time period.*

14 Sec. 6. K.S.A. 79-41a03 is hereby amended to read as follows: 79-
15 41a03. (a) The tax levied and collected pursuant to K.S.A. 79-41a02, and
16 amendments thereto, shall become due and payable by the club, caterer,
17 drinking establishment or temporary permit holder monthly, or on or
18 before the 25th day of the month immediately succeeding the month in
19 which it is collected, but any club, caterer, drinking establishment or
20 temporary permit holder filing an annual or quarterly return under the
21 Kansas retailers' sales tax act, as prescribed in K.S.A. 79-3607, and amend-
22 ments thereto, ~~shall~~, upon such conditions as the secretary of revenue
23 may prescribe, *shall* pay the tax required by this act on the same basis
24 and at the same time the club, caterer, drinking establishment or tem-
25 porary permit holder pays such retailers' sales tax. Each club, caterer,
26 drinking establishment or temporary permit holder shall make a true re-
27 port to the department of revenue, on a form prescribed by the secretary
28 of revenue, providing such information as may be necessary to determine
29 the amounts to which any such tax shall apply for all gross receipts derived
30 from the sale of alcoholic liquor by the club, caterer, drinking establish-
31 ment or temporary permit holder for the applicable month or months,
32 which report shall be accompanied by the tax disclosed thereby. Records
33 of gross receipts derived from the sale of alcoholic liquor shall be kept
34 separate and apart from the records of other retail sales made by a club,
35 caterer, drinking establishment or temporary permit holder in order to
36 facilitate the examination of books and records as provided herein.

37 (b) The secretary of revenue or the secretary's authorized represen-
38 tative shall have the right at all reasonable times during business hours
39 to make such examination and inspection of the books and records of a
40 club, caterer, drinking establishment or temporary permit holder as may
41 be necessary to determine the accuracy of such reports required
42 hereunder.

43 (c) The secretary of revenue is hereby authorized to administer and

1 collect the tax imposed hereunder and to adopt such rules and regulations
2 as may be necessary for the efficient and effective administration and
3 enforcement of the collection thereof. Whenever any club, caterer, drink-
4 ing establishment or temporary permit holder liable to pay the tax im-
5 posed hereunder refuses or neglects to pay the same, the amount, in-
6 cluding any penalty, shall be collected in the manner prescribed for the
7 collection of the retailers' sales tax by K.S.A. 79-3617, and amendments
8 thereto.

9 (d) The secretary of revenue shall remit daily to the state treasurer
10 all revenue collected under the provisions of this act. The state treasurer
11 shall deposit the entire amount of each remittance in the state treasury.
12 Subject to the maintenance requirements of the local alcoholic liquor
13 refund fund created under K.S.A. 79-41a09, and amendments thereto,
14 25% of the remittance shall be credited to the state general fund, 5%
15 shall be credited to the community alcoholism and intoxication programs
16 fund created by K.S.A. 41-1126, and amendments thereto, and the bal-
17 ance shall be credited to the local alcoholic liquor fund created by K.S.A.
18 79-41a04, and amendments thereto.

19 (e) ~~Whenever~~ *When*, in the judgment of the secretary of revenue, it
20 is necessary, in order to secure the collection of any tax, penalties or
21 interest due, or to become due, under the provisions of ~~this act~~ *K.S.A.*
22 *79-41a01 through 79-41a09, and amendments thereto*, the secretary may
23 require any person subject to such tax to file a bond with the director of
24 taxation under conditions established by and in such form and amount as
25 prescribed by rules and regulations adopted by the secretary. *If requested*
26 *by any person subject to such tax, the secretary may waive the require-*
27 *ment to file a bond if, during the preceding twelve-month period, such*
28 *person has complied with the provisions of the club and drinking estab-*
29 *lishment act and has not been delinquent in the payment of any taxes or*
30 *fees imposed under the club and drinking establishment act or the pro-*
31 *visions of K.S.A. 79-41a01 through 79-41a09, and amendments thereto.*

32 Sec. 7. K.S.A. 41-301, 41-316, 41-317, 41-502, 79-4106 and 79-41a03
33 are hereby repealed.

34 Sec. 8. This act shall take effect and be in force from and after its
35 publication in the statute book.

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